

WEMMH PTO/SB/21 (09-04)

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/690,451
Filing Date	October 21, 2003
First Named Inventor	Michael C. SHERMAN et al.
Group Art Unit	3732
Examiner Name	Philogene, Pedro
Attorney Docket Number	4002-3274

Total Number of Pages in this Submission

ENCLOSURES (check all that apply)

- | | | |
|--|--|---|
| <input type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
PTO-2038 Credit Card Form

<input type="checkbox"/> Amendment Response
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)

<input type="checkbox"/> Extension of Time Request

<input type="checkbox"/> Express Abandonment Request

<input checked="" type="checkbox"/> Information Disclosure Statement
with copy of International Search
Report PCT/US2004/034334 and 1
reference

<input type="checkbox"/> Certified Copy of Priority Documents

<input type="checkbox"/> Response to Missing Parts/Incomplete
Application

<input type="checkbox"/> Response to Missing Parts under
37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)

<input type="checkbox"/> Licensing-related Papers

<input type="checkbox"/> Petition

<input type="checkbox"/> Petition to Convert a Provisional
Application

<input type="checkbox"/> Power of Attorney, Revocation,
Change of Correspondence Address

<input type="checkbox"/> Terminal Disclaimer

<input type="checkbox"/> Request for Refund

<input type="checkbox"/> CD, Number of CD(s) _____
<input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication
to TC

<input type="checkbox"/> Appeal Communication to Board of
Appeals and Interferences

<input type="checkbox"/> Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

<input type="checkbox"/> Proprietary Information

<input type="checkbox"/> Status Letter

<input checked="" type="checkbox"/> Return Receipt Postcard

<input type="checkbox"/> Other Enclosure(s) (please identify
below): |
|--|--|---|

Remarks**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Woodard, Emhardt, Moriarty, McNett & Henry LLP		
Signature			
Printed Name	Elizabeth A. Shuster		
Date	September 12, 2005	Reg. No.	52,672

CERTIFICATE OF TRANSMISSION - EXPRESS MAIL

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR Section 1.10 on the date indicated and is addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Signature		Express Mail Label No.	EV 466814593 US
Typed or printed name	Elizabeth A. Shuster	Date	September 12, 2005



9-13-05

FFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
)
Michael C. SHERMAN et al.) Before the Examiner
) Pedro Philogene
Application No. 10/690,451)
) Group Art Unit
Filed October 21, 2003) 3732
)
DYNAMIZABLE ORTHOPEDIC)
IMPLANTS AND THEIR USE IN)
TREATING BONE DEFECTS) September 12, 2005

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR Section 1.10 on the date indicated and is addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

EV 466814593 US

Express Mail Label No.

September 12, 2005

Date of Deposit

Elizabeth A. Shuster

Name

Signature

September 12, 2005

Date of Signature

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

1. List of All Patents, Publications, U.S. Applications, or Other Information

Pursuant to the provisions of 37 CFR 1.56, 1.97, and 1.98, Applicant requests consideration of the references listed on the attached PTO/SB/08 form(s) (commonly referred to as a PTO-1449 form) and/or the additional information identified below.

2. Enclosed Legible Copies

- a. A legible copy of each foreign patent document and publication listed on the PTO/SB/08 form is enclosed,
- ☐ i. except, a copy is not provided for each reference previously cited by or submitted to the Patent Office in prior U.S. Patent Application Serial No. _____, filed _____ from which the present application claims priority under 35 U.S.C. §120.
- ☐ ii. except, a copy is not provided for each cumulative reference and enclosed reference identified below:
- ☐ b. A copy of the specification and drawings for each cited unpublished U.S. application.
- ☒ c. A copy of a Search Report or Written Opinion from a foreign patent office is also enclosed.
- ☐ d. Consideration of the enclosed additional and/or below discussed information is requested.

3. Concise Explanation of Relevance for Non-English Language Information

For each non-English language reference listed on the attached SB/08 form(s), reference is made to:

- ☐ 3a. an English language translation submitted herewith,
- ☒ 3b. foreign patent office Search Report (in the English language) submitted herewith,
- ☐ 3c. an English language translation of a foreign patent office Search Report submitted herewith,
- ☐ 3d. the concise explanation contained in the present application at page(s) _____,
- ☐ 3e. the concise explanation set forth in the attached English language abstract,
- ☒ 3f. a copy of a related patent publication (in the English language) submitted herewith,

Foreign Patent Document	Corresponding English Language Patent Document
DE 200 01 879	Abstract

- ☐ 3g. the following concise explanation:

4. Time for Filing

- ☒ 4a. This Information Disclosure Statement is submitted:
- ☐ i. for U.S. national applications or national stage PCT applications (not including CPAs and RCEs), within 3 months of filing or entry into national stage; or
- ☒ ii. for U.S. national applications, national stage PCT applications, CPAs or RCEs, before the first Office Action on the merits,

and thus no certification and/or fee is required.

- ☐ 4b. This information Disclosure Statement is submitted after three months from the filing date and after the first Office Action on the merits, but prior to the mailing date of a final Office Action or Notice of Allowance, and thus:
- ☐ i. the statement specified in 37 CFR §1.97(e) is provided below, or
- ☐ ii. a fee of \$_____ (set forth in 37 CFR §1.17(p)) is enclosed.
- ☐ 4c. This Information Disclosure Statement is submitted after the mailing date of a final Office Action or Notice of Allowance and prior to payment of the issue fee, and thus:
- ☐ i. the statement specified in 37 CFR §1.97(e) is provided below, and a fee of \$_____ (set forth in 37 CFR §1.17(p)) is enclosed, or


- ☐ ii. a Request for Continued Examination (RCE) and fee of 37 CFR §1.17(e) has been filed.
- ☐ 4d. This Information Disclosure Statement is submitted after payment of the issue fee, and thus:
- i. a Petition to Withdraw from Issue pursuant to 37 CFR §1.313(c)(2) has been filed, and
- ii. a Request for Continued Examination (RCE) and fee of 37 CFR §1.17(e) has been filed.

5. Certification- Statement Under 37 CFR 1.97(e)

- ☐ 5a. It is hereby certified that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- ☐ 5b. A copy of a dated communication from a foreign patent office which clearly shows the statement is being submitted within three (3) months of the date on the communication is enclosed.
- ☐ 5c. It is hereby certified that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

The filing of this Information Disclosure Statement shall not be construed as an admission that the information cited is, or is considered to be, material to patentability as defined in §1.56(b). It is believed that no additional fees are required. Should any other fee be required, however, please charge such fee to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Respectfully submitted,

By: 
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Indianapolis, Indiana 46204-5137
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INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				Complete if Known	
				Application Number	10/690,451
				Filing Date	October 21, 2003
				First Named Inventor	Michael C. SHERMAN et al.
				Group Art Unit	3732
Examiner Name	Unassigned				
Sheet	1	of	1	Attorney Docket No.	4002-3274

U.S. PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Document Number		Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (If known)				
		US-	4,338,926	07-13-1982	Kummer et al.	
		US-	6,293,949	09-25-2001	Justis et al.	
		US-	2003/191470 A1	10-09-2003	Ritland	
		US-	6,605,090	08-12-2003	Trieu et al.	
		US-	5,824,088	10-20-1998	Kirsch et al.	

FOREIGN PATENT DOCUMENTS							
Examiner Initials*	Cite No. ¹	Foreign Patent Document		Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)					
		DE 200 01 879 U1		03-30-2000	Aesculap AG & Co.		<input type="checkbox"/>
							<input type="checkbox"/>

Examiner Signature		Date Considered	
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.